

FINAL

**Advisory Committee on Juvenile Justice
Meeting Minutes
October 13, and 14, 2004
Approved January 24, 2005**

The official business meeting of the Advisory Committee began at with a tour of the facility at 10:00 a.m. on Wednesday, October 13, 2004, at the Shenandoah Valley Juvenile Detention Home in Staunton, Virginia.

Members Present

Henry N. Azais
Jane Brown, Proxy for Maurice A. Jones
Dr. Cynthia Cave, Proxy for Dr. DeMary
Lynette Greenfield, Proxy for Jerrauld Jones
The Honorable Mary K. Hill (via telephone)
Charles S. Martin
Daniel L. Plaughner (via telephone)
Mr. Robert E. Shepherd, Jr.
Wayne Thomas, Chair
Ruby G. Turner
Justin Wilson
Gina E. Wood

Members Not Present

Benjamin Andrews
Pamela Fitzgerald Cooper, Proxy for Dr. Reinhard
Guy E. Cousins
Russell B. Foot
Matthew T. Gowin
Susan C. Laughrun
Dr. Jay W. Malcan
G. Jeffrey Mason
The Honorable Robert F. McDonnell
The Honorable Linda T. Puller
Patrick Henry Sweet, III
The Honorable Sharon Breeden Will

Staff Present

Laurel Marks
Dr. Aura Hanna
Ursula Murdaugh
Will Bronson
Laureen Hyman

Wednesday, October 13, 2004

I. Welcome, Call to Order and Introductions

The meeting was called to order by the Chair, Mr. Wayne Thomas. New members were welcomed and all present introduced themselves to the group.

II. Review and Approval of Minutes

Mr. Thomas asked if there were any comments, additions or deletions to be made to the minutes from the August 18, 2004, meeting of the ACJJ. A motion was made by Mr. Charles Martin and seconded that the minutes be approved. The motion passed unanimously.

III. Compliance Monitoring Report

Mr. Bronson notified the group that he is in the process of a preliminary review of desk audits and is on track for compliance with all of the core requirements. Mr. Bronson is participating on the sight and sound task force with the Department of Justice. With regard to new federal sight and sound policy, we are to be in compliance within a two year time period.

IV. State Agency Reports

Ms. Marks explained that Ms. Pam Fitzgerald Cooper is no longer with DMHMRSAS. Those items originally on the agenda for the meeting (DMHMRSAS state agency report and the Children's Mental Health Initiative Report) will be put on an agenda at a later date.

DSS

Ms. Jane Brown gave an overview of DSS. There are three tracts within DSS: a benefits tract, family services tract and a community programs tract. Starting a year and a half ago DSS underwent a Family Service review by the federal government. Virginia's funding is linked to this review and a performance improvement plan is now being developed. DSS is also taking part in the National Governor's Association Academy on Prisoner Reentry. The academy looks at the barriers people face when reentering society. The Deputy Secretary of Public Safety, Barry Green, chairs this initiative.

DJJ

Ms. Lynette Greenfield gave an overview on DJJ. Numbers are down in the juvenile correctional center for the ninth year in a row. One of the biggest issues DJJ is facing is mental health. DJJ is finalizing a report on the JCC utilization study that will be distributed to the Sight and Sound committee. The report will address all eight of the juvenile facilities and will look at populations and the best uses for each.

Transitional services were discussed as being part of the Governor's Action Plan. The plan assigned DJJ to develop structure for the juveniles coming out of the correctional centers to ensure that they have skills or GED's to help them with the transition into society. In the past, DJJ did not have a tracking system in place to determine the status of those juveniles leaving the correctional facilities, but this has changed and now the individuals can be tracked. The process is part of the Governor's Executive Agreement and is implemented through the parole system. Information has to be entered into the juvenile tracking system within a month indicating whether the individual is working or is in school.

DJJ was awarded a \$676,000 grant from the Department of Labor to develop vocational services within the correctional center and to have services available to these juveniles. DJJ has contracted out the community part of this plan to Securicor, which is working with the juveniles while they are in the correctional centers to get them ready for their release.

into society. DJJ also built a Barber Shop at Beaumont as the juveniles expressed an interest in that type of program. The juveniles can get certification, be tested and receive their Barber Shop license at Beaumont.

It was noted that although the number of individuals has gone down, the number of African Americans has increased. This is a concern for all and a high priority for Virginia.

Ms. Greenfield expressed a desire to have data on juveniles who are not brought into the intake system. It would be useful to know when and under what circumstances law enforcement gives a juvenile a warning and releases them versus sending them to intake.

DOE

Dr. Cynthia Cave gave an overview of DOE and how they are looking at disproportionate minority representation in schools at the special education level. They have been collecting data on suspensions and expulsions by race. They have Cultural Competency Training to try and help teachers and staff understand others within the school and have recently developed a manual addressing truancy.

Within the Code there is a section that the school system needs to pass on school records to the juvenile correctional system when students are in the system and not school. All is in place for these regulations, which were approved by the Board of Education in 2002 to go forward in the APA process. They never completed the review level before being released to the public. DOE is now looking at having them reviewed with the help of a task force, and are committed to strengthening the transition between juvenile justice and the educational system.

Another active DOE program is called the Governor's Education for a Lifetime initiative. One of the components of this initiative is to assist high school seniors to become better informed of their choices after graduation. There are programs in place to help them learn a trade before or after they graduate. This initiative also helps seniors take classes elsewhere to make up for needed credits to graduate instead of letting them drop out.

In regard to those individuals at detention centers, Dr. Cave explained that the Department of Correctional Education (DCE) staff is trained to teach at the levels where kids are getting ready for their SOLs. The school that the juvenile is coming from is mandated to get the school records to a parole officer within an allotted time. In some cases when the child is released, the release date may not be known which can cause problems getting grades from the detention center to the school. The crux of the problem is the lack of communication. DOE is working on this program with a task force to determine ways to make this process work better.

V. Statewide Initiatives

Crime in the Minority Community Task Force

DCJS is staffing the Governor's Task Force on Crime in the Minority Community, co-chaired by David Hicks, Commonwealth's Attorney in Richmond, and Bishop Gerald Glenn. The task force is preparing a report to go to the Governor by the end of year. The recommendations being considered include the following:

Prevention: This includes encouraging community coalitions, encouraging programs on mentoring, education and employment opportunities for youth, expanding the youth court model, designing and implementing strategies to increase system-wide education, sensitivity toward and outreach to minority communities, actively recruiting minority criminal justice professionals, crime mapping and analysis, removal of barriers to high school graduation, and other issues affecting minority communities to prevent crime.

System Contact Area: This includes ensuring adequate supervision and services for juveniles, appropriately handling confined offenders with mental illnesses, J&DR need for domestic violence and alcohol and treatment services for minority adults, creating and implementing drug courts in every circuit within Virginia, removing barriers for restoration of rights for non-violent offenders, restoring and increasing money for the Virginia Juvenile Community Crime Control act and supporting reentry initiatives.

Mr. Bob Shepherd commented that there is no authority for youth courts in the Virginia Code. The ACJJ may want to consider recommending legislation to change that. Perhaps youth could be involved in the juvenile court process by serving as an advisory jury to the judge. In some jurisdictions they use peers to serve as counsel in the courtroom. There have been low recidivism rates where youth courts have been tried. Several states have legislation on this issue. It was pointed out that OJJDP has identified the NY program as a model. There is an early AG's opinion that says that it isn't permissible to do this without legislation.

Detention Reform

Ms. Greenfield gave an overview on detention reform. Detention should be only for juveniles who need to be detained. A cultural shift needs to be made in the decision of detaining. Two years ago DJJ put out a Detention Assessment Instrument (DAI), which is completed when the decision to detain is being considered. The score from the form becomes part of the consideration to detain. The latest numbers had an override rate of 38% (which is a good percentage compared to where it has been). When the override rate is broken down, where the DAI suggested that juveniles be released and they are detained instead, that override rate is only 12% (which is acceptable). Where the form does recommend an alternative to detention, they are still experiencing an override. In several cases that were reviewed, there was no alternative available.

Currently Shenandoah Valley Juvenile Detention Home is the only facility that the Community Placement Program, where state juveniles who have been sentenced to state are housed at the detention facility rather than to a juvenile correctional facility. Missouri has a similar model, for lower level offenders.

Other alternatives to detention available for juveniles or strategies to minimize detention include: intensive supervision, group home, home incarceration, and detention expeditors.

Gang Initiative

Ms. Greenfield spoke about the gang initiative presentation. Three national speakers, Al Valdez, who is from the District Attorney's Office in Orange County, California made the first presentation. Valdez is the author of "Gangs: A Guide to Understanding Street Gangs". He provided a session on how and why gangs form and provided background on their cultural ties. Ron "Cook" Barrett of the Albany, New York Capital Region Gang Prevention Center, and Regina Huerter of the Denver, Colorado-based Urban Peak organization also spoke about gangs. The DJJ Regional Operations Manager, Marilyn DiPaolo, who is on special assignment to head up DJJ's effort to stem the growing gang problem in our juvenile population, was there as well. Juveniles are going into the correctional centers and, if they are recruited into a gang while they are within the facility, DJJ is working with them to remove gang symbols/tattoos before being released into the community. If they have tattoos when they enter, photos are taken and filed. Not everyone is willing to give up his or her tattoos. A huge survey on gangs was sent to each locality. It is not a problem statewide, but there are localities where gangs exist, with activity tending to run along the highway corridors.

Criminal Justice Plan Update

Dr. Aura Hanna explained that the plan is in the process of being reviewed and will be going to the Director of DCJS at the end of the month and to the Office of the Secretary of Public Safety shortly thereafter.

Thursday, October 14, 2004

Ms. Susan Goldsticker, Director, Commonwealth Attorneys Services Council (CASC) introduced herself to the ACJJ. The CASC is responsible for training and providing services to prosecutors throughout Virginia. The JABG guidance requires the input of a prosecutor, and Ms. Goldsticker has been asked to provide that input.

V. Statewide Initiatives (Continued)

Indigent Defense Commission

Mr. Richard Goemann gave an overview of the Indigent Defense Commission, previously the Public Defender Commission. The new Commission now has responsibility for training and setting standards for all attorneys who represent clients who cannot afford to hire an attorney, including both public defenders and private attorneys who are appointed to represent indigent clients.

From the ABA Report (copies were distributed at the meeting) it was discovered that children with mental health issues are overrepresented in the juvenile delinquency system and attorneys are ill equipped to find services for them. The Indigent Defense Commission worked with the Virginia Association of Criminal Defense Lawyers, and the Midatlantic Juvenile Defender Center to put together the First Annual Juvenile Defender Summit on October 8, 2004, in Richmond, Virginia to provide more training on this topic. This training was funded by JJDP Challenge funds.

When a juvenile is having their arraignment hearing after being placed in detention, it is often done by videoconference. The juvenile doesn't always actually meet their attorney, and there isn't a lot of opportunity for the juvenile to speak privately with the attorney. Mr. Goemann expressed his feeling that while this practice may be necessary to decrease on the transportation of juveniles from detention centers to courts and back, he feels that it is not ideal in terms of representation of juveniles.

Legislation passed last year, HB 600, that requires appointment of counsel prior to an initial detention hearing. This bill also requires that, if a juvenile is facing a charge that could result in a commitment, the juvenile must consult with an attorney prior to being able to waive an attorney. This new legislation is scheduled to be effective July 1, 2005. There has been talk about setting up a position for a juvenile defender services director within the Commission.

The Commission is currently working on detention advocacy, enforcing special education requirements, educating on dispositional alternatives available within the different regions, and developing caseload standards to be set by the Commission. There is a plan to make juvenile caseload standards work better for Virginia by adopting the national standards now and then seek funds to do a study to find a more effective way to do this in Virginia.

VI. Data Presentation

Dr. Hanna gave a presentation on the Three Year Plan Update with the state priorities for Title II funding. When priorities are listed, they include all those that are considered to be juvenile justice priorities including those that are funded under other funding streams such as Title V, JABG, and Challenge. As the Three Year Plan Update is a Title II funding application, Title II priorities are listed at the top of the list. Priorities to be funded under other streams are rated lower.

VII. Priority Areas

As recommended by DCJS staff, Mr. Shepherd made the motion that the ACJJ adopt as its priority for the 2005 Three Year Plan update:

1. Detention Alternatives (old 2 & 6)
2. **Aftercare/Reentry (new)**
3. Disproportionate Minority Contact (old 4)
4. Mental Health Needs of Juvenile Offenders (old 5)
5. Sex Offenders (old 9)
6. Legal Representation (old 3)
7. Young Juvenile Offenders (old 1)
8. Lack of Services in Rural Areas (old 7)
9. Truancy (old 8)
10. **Gangs (new)**

The motion was seconded and approved unanimously.

It was noted by ACJJ members that this year's process for determining the priority areas worked well and should be continued in the future.

VIII. Program Updates and Priority Setting

Title V

There was no funding for new starts for Title V. DCJS is funding only continuations in FY '05. To meet their needs, the requests had to be split out of 2 funding years, as our allocation for 2004 was not sufficient. Information is not available on 2005 allocations at this time, but it is believed that money to support continuations and possibly some new starts may be awarded. DCJS has typically allowed localities to determine their own priority needs and have funded replications of model programs to fill that need. If new money becomes available, staff asks that the Title V process of allowing localities to determine their own priorities and retain the \$65,000 cap be continued.

Mr. Charles Martin motioned that the Title V process of allowing localities to determine their own priorities and retain the \$65,000 cap be continued. The motion was seconded and approved unanimously.

Title II

The ACJJ recommended funding for nine new Title II programs. On September 9th, the CJSB approved the recommendation for 4 case expeditor programs, 1 family functional therapy program, and 4 truancy programs. There are currently six young juvenile offender programs that will end June 30, 2005.

There are 5 YJO grants potentially eligible for continuation that end December 2004. The motion was made by Ms. Turner to delegate full committee authority to the Title II subcommittee for action at the November 15, 2004, Title II Subcommittee meeting for action on continuation applications. The motion was seconded and approved unanimously.

Mr. Shepherd motioned that, if there is funding for new starts, grantees be allowed to come in for any of the priority areas that best meet their needs. The ACJJ will fund any replication of a model program or strategy. The motion was seconded and approved unanimously.

JABG

Mr. Charles Martin motioned that the 2004 funding priorities be continued for FY2005:

- Alternatives to detention
- Mental health needs of juvenile offenders
- Aftercare needs of juvenile offenders in secure detention and/or correctional facilities
- Training, technical assistance and other one-time expenditures (as funding permits) to improve the juvenile justice system as they relate to the JABG 16 program purpose areas.

The motion was seconded and approved unanimously.

Mr. Charles Martin motioned that, for federal fiscal year 2005 funding, based on the availability of funding, the state make a waiver request in the FY2005 application to maintain at the state level a percentage of funds that compares to the state's burden for juvenile justice expenditures. The motion was seconded and approved unanimously.

QUORUM

Mr. Martin pointed out that there had been discussion regarding §9.1-111 the previous day. The bill requires a quorum of half of the ACJJ membership to be in attendance at meetings (which is 12) and has proved to be difficult to the ACJJ.

A motion was made that the Chairman be given permission to write a letter to members who have missed two consecutive meetings strongly suggesting that they attend meetings or consider resigning from the committee. The member should also contact the committee with the reason they are going to be absent, unless it is an emergency. If the individual participated in the meeting by telephone, it would not be considered a missed meeting. The motion was seconded and approved with one abstention, Ms. Gina Wood. It was noted that the letter would not be mandatory, just a strong suggestion.

Challenge

There are three priorities for Challenge: Mental Health, Truancy and legal representation. Mental Health and Truancy have been the priorities for the last two years, and legal representation has been for one year.

Most of the work in the mental health area has been done through a contract with UVA. That contract has been completed. DCJS staff have had preliminary conversations with Dennis Waite of DJJ to discuss the mental health needs, and he expressed a need to train staff of the detention centers on mental health issues. He has indicated his staff will be available to provide training, if desired. This will not require a large amount of funds, so staff requests that some funds be moved from the mental health activity area to the access to counsel area for the Challenge year where this was not already a stated priority area.

A motion was made by Ms. Wood to modify the activity areas for FY 2002 Challenge funds to be mental health issues in the juvenile justice system, legal representation and truancy. The motion was seconded and approved unanimously.

IX. DJJ's 2005 Legislative Proposals

The legislative agenda for the 2005 General Assembly session is tentative. Most state agencies have made recommendations to their Secretaries. The following are DJJ's proposals for the 2005 session:

First Recommendation:

To make child support payments to DJJ retroactive to date of commitment to DJJ.

The child support goes to DJJ only as of the date that the court enters its order. This would make any court order designating DJJ as a recipient of the child support, retroactive to the date that the juvenile came into DJJ's care.

Mr. Shepherd made the motion that the Advisory Committee support the department's legislative recommendation for making child support orders retroactive to the date of commitment to DJJ. The effect would be that DJJ would get child support from the date of commitment rather than from the date of the judge's order. Currently, the parent receives child support until the judge's order. The motion was not seconded.

After much discussion, Ms. Wood made a motion to have the ACJJ refrain from taking a position on this legislation presented from DJJ on making child support retroactive to DJJ. The motion was seconded and approved, with Mr. Wilson opposing.

Second Recommendation:

Amends Virginia Code 16.1-269.2 to include a requirement that upon a motion by the attorney for the Commonwealth for a transfer hearing, the court shall notify the court service unit of the need for a transfer report pursuant to Virginia Code 16.1-269.2.

This proposal amends Virginia Code 16.1-272 to require the circuit court to designate if an adult probation or parole officer or a juvenile probation or parole officer will provide supervision of a juvenile convicted as an adult.

Mr. Shepherd motioned that the ACJJ support this legislation from DJJ. The motion was seconded and passed with Ms. Wood abstaining.

Third Recommendation:

Work and Educational Release for Committed Juveniles

This legislative proposal creates a work release program for juveniles committed to a juvenile correctional center modeled upon the statutes granting the Department of Corrections the authority to develop such programs. This proposal amends the Virginia Code to allow the Director of DJJ to establish work release programs whereby a ward, who meets the work release criteria established by the Director, may be approved for employment by private individuals, corporations or state agencies at places of business. It allows the Director to approve the participation of an appropriate ward in an education or other related community activity program that is not available within a JCC. A motion was made by Mr. Charles Martin, seconded and approved unanimously.

Fourth Recommendation:

This legislative proposal would amend subsection C of the Virginia Code 18.2-57 to make it a felony to assault a juvenile probation officer.

This legislative approval adds probation and parole officers to that list of enforcement personnel who, if they are victims of assault and battery, are given different status. Punishment for assault and battery is a Class 1 misdemeanor. Punishment for assault and battery of law enforcement personnel, now to include probation and parole officers, is a Class 6 felony.

Much discussion ensued around this proposal.

Mr. Martin made a motion to say we have no comment. This motion was not seconded.

Mr. Shepherd then made a motion that the ACJJ go on record in opposition to this legislative proposal from DJJ.

Ms. Wood called for the question.

The motion made by Mr. Shepherd (above) was seconded. The motion passed. Mr. Wilson opposed. There were three abstentions: Ms. Greenfield, Ms. Brown, and Mr. Martin.

Virginia Coalition for Juvenile Justice proposal:

A motion was made by Mr. Shepherd to endorse the Virginia Coalition for Juvenile Justice's proposal in principal for development of reentry system for juveniles from DJJ back into the community. The motion was seconded. Mr. Thomas, Ms. Brown, Ms. Greenfield and Dr. Cave abstained.

X. Schedule of 2004-2005 Meetings

The next meeting was set for Monday, January 24th at 2pm.

A motion was made by Mr. Hank Azais to adjourn at 12:45pm, was seconded and approved unanimously.